

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KIM A. ETIENNE, an individual,

Plaintiffs,

v.

UNITED STATES OF AMERICA;
STEPHEN ALLISON, MD; DOUGLAS
HIDLAY, MD; and UNKNOWN JOHN
DOES AND JOHN DOE CLINICS,

Defendants.

CAUSE NO.

COMPLAINT FOR
MEDICAL NEGLIGENCE

I. PARTIES

1.1 Plaintiff Kim A. Etienne, an individual, resides in Twin Falls, Idaho. At all material times hereto, Kim is married to Charlene Etienne. The event giving rise to this claim occurred in Seattle, King County, Washington.

1.2 Defendant United States of America is named on the basis of the determination pursuant to 28 U.S.C. Sec. 2671 that VA Puget Sound Healthcare Center in Washington and its physicians, employees, and agents are employees and agents of the United States Government.

1.4 Defendant Douglas Hidlay, MD was a resident physician and employee and/or agent at VA Puget Sound Healthcare Center in Washington, at all times material hereto, and provided care to Plaintiff Kim A. Etienne and whose negligence contributed to Plaintiff's injuries and damages.

1.5 Plaintiff alleges there may be other health care providers, persons, or entities whose negligence contributed to Plaintiff's injuries and damages, but whose identity is not now known and who are referred to herein as Unknown John Does. Plaintiff requests these pleadings be amended to reflect the true identities of these Defendants if and when they are identified.

1.6 Plaintiff alleges there may be other Clinics, Corporations or Partnerships that employed individuals mentioned in the paragraphs above, such as to make these John Doe Clinics, Corporations or Partnerships responsible, whose negligence contributed to Plaintiff's injuries and damages, but whose identity is not now known and who are referred to herein as Unknown John Doe Clinics, Corporations or Partnerships. Plaintiff requests these pleadings be amended to reflect the true identities of these Defendants if and when they are identified.

II. JURISDICTION AND VENUE

2.1 On January 7, 2021, Plaintiff Kim Etienne submitted a Claim for Damage, Injury, or Death Tort Claim form on all appropriate agencies (*See Exhibit 1, attached*). The U.S. Department of Veterans Affairs in San Juan, Puerto Rico, acknowledged receipt of a claim form on February 8, 2021. As of this date, Plaintiff Kim Etienne has received no denial of the Federal Tort Claim, but the six-month investigation period has since expired. Therefore, this

1 Court has jurisdiction over the claims against the United States of America pursuant to 28
 2 U.S.C. Sec. 2675(a).¹

3 2.2 Venue in this Court is proper pursuant to 28 U.S.C. sec. 1402(b).
 4

5 **III. STATEMENT OF CLAIMS**

6 3.1 On August 16, 2019, Plaintiff Kim Etienne presented to VA Puget Sound in
 7 Seattle for complaints of left lower leg pain and left foot numbness. The findings were for acute
 8 claudication with no dorsalis pedis pulses found on doppler. Vascular surgery consult requested.

9 3.2 Dr. Gale Tang of vascular surgery examined Mr. Etienne and found that he had
 10 CTA occlusion on the left iliac stent and the entire left iliac arteries.
 11

12 3.3 Interventional radiology was contacted to perform possible thrombolysis from
 13 the brachial approach, which was less likely to cause compartment syndrome.

14 3.4 At 10:31 p.m. on August 16, 2019, Dr. Douglas Hidlay and Dr. Stephen Allison
 15 attempted ultrasound guided left brachial access, angiography and attempted thrombolysis.
 16

17 3.5 During the procedure, Dr. Hidlay and Dr. Allison attempted thrombolysis with
 18 multiple wire and catheter combinations. *“Unsuccessful attempt at LLE thrombolysis; flush*
 19 *occlusion of L common iliac kissing stent could not be crossed. Patient transferred to the OR.”*

20 3.6 During this procedure, Dr. Hidlay and Dr. Allison caused a pseudoaneurysm in
 21 Mr. Etienne’s brachial artery but did not report it. This condition went untreated for a significant
 22 and critical period of time thereafter.
 23

24 3.6 Following the unsuccessful attempt by Drs. Hidlay and Allison, Mr. Etienne was
 25 taken to the OR by Dr. Gale Tang who performed: aortoiliac thrombectomy via left common
 26

27 ¹ Charlene Etienne filed a tort claim on 6/21/21. (*See Exhibit 2, attached*). Plaintiffs will move to amend this Complaint and join Mr. and Mrs. Etienne’s claims to this suit once the 6-month period has passed, or a response to

1 femoral artery access, thromboendarterectomy of the left common femoral artery and proximate
2 profunda, thrombectomy of the prior left femoral above knee popliteal bypass graft, greater
3 saphenous vein patch angioplasty of prior left femoral to above knee popliteal bypass graft,
4 intra-arterial thrombolysis using tPA, removal of the left brachial 6 french sheath, four-
5 compartment fasciotomies with medial and lateral incisions with wound vacuum-assisted
6 closure placement.

8 3.7 On August 18, 2019, Mr. Etienne complained of left arm pain and numbness in
9 the left hand. Duplex at the bedside showed a 0.9 cm pseudoaneurysm partially thrombosed
10 stemming from the brachial access site and tracking along the brachial sheath.

12 3.8 On August 19, 2019, Dr. Tang and Dr. Jamal Anyalebechi took Mr. Etienne back
13 to surgery for a left brachial artery thrombectomy and repair of the left brachial artery
14 pseudoaneurysm.

15 3.9 The Defendants failed to provide reasonable and prudent care during Kim
16 Etienne's Interventional Radiology procedure accessing the brachial artery that caused left hand
17 and left median nerve neuropraxia.

19 3.10 If Defendants had met the standard of care, Mr. Etienne would not have had a
20 pseudoaneurysm in the brachial nerve causing him to lose feeling in the left hand and arm.

21 3.11 The Plaintiff filed a claim on January 7, 2021, which claim is attached as Exhibit
22 "1" to this Complaint.

24 ///

25 ///

27 Charlene Etienne's claim is received, whichever is sooner. Mrs. Etienne's claims are based upon loss of consortium due to the events described herein.

1 **IV. CLAIMS AGAINST THE UNITED STATES OF AMERICA**

2 4.1 As alleged above, the VA Puget Sound Healthcare Center, and its employees are
3 employees and or agents of the United States Government pursuant to 28 U.S.C. Sec. 2671.
4 Therefore, the proper Defendant in this matter is the United States of America.
5

6 4.2 Medical Negligence. Defendant United States of America, by and through is
7 employees and agents, the Madigan Army Medical Center system failed to exercise the degree
8 of care, skill and learning expected of reasonably prudent health care providers in the same
9 profession or class in the State of Washington acting in the same or similar circumstances. Such
10 conduct proximately caused severe injuries and damage to Plaintiff. Such conduct establishes
11 claims under RCW 4.24, RCW 7.70 and other applicable law.
12

13 4.3 Negligence. Defendant United States of America, by and through the VA Puget
14 Sound Healthcare Center failed to exercise the degree of care, skill, and learning expected of
15 reasonably prudent health care providers in the same profession or class in the State of
16 Washington acting in the same or similar circumstances. If the actions of defendant fall outside
17 of these parameters, negligence has occurred.
18

19 4.4 Informed Consent. Defendant United States of America, by and through the
20 VA Puget Sound Healthcare System and its employees, breached its duty to inform Plaintiff of
21 all material facts, including risks and alternatives, which a reasonably prudent patient would
22 need to make an informed decision on whether to consent to or reject proposed courses of
23 treatment. This conduct proximately caused injury to Plaintiff.
24

25 4.5 Corporate Negligence. Defendant United States is liable under the doctrine of
26 corporate negligence, WPI 105.02.02. Defendant Hospital owes an independent duty of care to
27 its patients and has a duty to exercise the degree of skill, care, and learning expected of a

1 reasonably prudent hospital. Defendant is responsible for all acts and omissions of its
2 employees, agents, independent contractors and is responsible for adequate supervision of its
3 staff members.

4
5 4.6 More specifically, Defendant United States failed to:

6 4.6.1 provide reasonable care during Interventional Radiology in
7 accessing the left brachial artery for attempted thrombolysis; and

8 4.6.2 meet the standard of care of reasonably prudent healthcare
9 providers under the same and similar circumstances, resulting in
10 the ultimate severe injury to Mr. Etienne's medial and ulnar
11 neuropraxia.

12 **V. PROXIMATE CAUSE**

13 5.1 The conduct of Defendants herein was a proximate cause of Plaintiff's injuries
14 and damages as outlined below, as well as the damages claimed by Mrs. Charlene Etienne.

15 **VI. INJURIES AND DAMAGES**

16 6.1 The acts and omissions of Defendants directly and proximately caused Kim A.
17 Etienne to suffer severe and permanent injury, both mental and physical, pain and suffering,
18 mental anguish, disability, and other elements of damages as allowed by law.

19 6.2 Charlene Etienne has a loss of consortium claim, including but not limited to loss
20 of love and affection.

21 6.3 Plaintiff incurred out-of-pocket expenses, including but not limited to medical
22 expenses, income loss, funeral expenses?, and other expenses in an amount that will be proven
23 at trial.

24
25 WHEREFORE, having set forth his complaints, Plaintiff requests the right to amend the
26 complaint to add Ms. Charlene Etienne as a Plaintiff as discussed supra, as well as to amend the
27 complaint to conform to the evidence and for the Court enter judgment against Defendants,

1 jointly and severally, for all injuries and damages sustained by the Plaintiff in the amounts to be
2 proven in trial, together with his reasonable costs and fees incurred herein, and such further
3 relief as justice requires.
4

5 DATED this 8th day of July, 2021.

6 HOLMAN LAW, PLLC
7 /s/ Colleen Durkin Peterson
8 Colleen Durkin Peterson, WSBA No. 45187
9 Holman Law, PLLC
10 216 N. Yakima Avenue
11 Tacoma, WA 98403
12 Telephone: 253-627-1866
13 Fax: 253-627-1924
14 Email: CDP@theholmanlawfirm.com
15 Attorney for Plaintiffs
16
17
18
19
20
21
22
23
24
25
26
27